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Human rights situations that require the Council's attention

Letter dated 25 November 2016 from the Chargé d'affaires a.i. of Georgia to the United Nations Office at Geneva addressed to the President of the Human Rights Council

I have the honour to present the quarterly report (July – September 2016) of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia (see annex).

In this context, I would be highly appreciative if you could kindly circulate the present letter and the annex thereto* as a document of the thirty-fourth session of the Human Rights Council under agenda item 4.

(Signed) Irakli **Jgenti**

Chargé d'affaires a.i.

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Annex to the letter dated 25 November 2016 from the Chargé d' affaires a.i. of Georgia to the United Nations Office at Geneva addressed to the President of the Human Rights Council

Third quarterly report (July – September 2016) of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia

I. Introduction

Aims of the report and methodology applied

1. In January 2015 the Ministry of Foreign Affairs of Georgia started preparation of quarterly reports aiming at assessing the human rights situation in the occupied regions of Georgia. The Ministry of Foreign Affairs of Georgia prepared four such reports in 2015. This is the third quarterly report of the Ministry of Foreign Affairs of Georgia for the year 2016 covering the period of July-September 2016. The Ministry of Foreign Affairs of Georgia will further continue the preparation of such reports on a quarterly basis. This reporting exercise aims to contribute to the provision of regular and updated information to the international community, to states as well as to international intergovernmental and non-governmental organizations, on the human rights situation in the occupied regions of Georgia.

2. As for the applied methodology, this reporting exercise consolidates and assesses existing information from various open sources, national and international, on violations of human rights in the occupied regions of Georgia. Due to limitations on its length, the report does not aim to collect/contain information on all cases of violations of human rights in the occupied regions of Georgia; it aims to consolidate and assess only some of the most known examples of violations. The methodology applied does not provide for the conduct of fact-finding visits to the occupied regions of Georgia, nor to the conduct of interviews. Therefore the methodology applied does not enable this reporting exercise to collect and produce new data on the human rights situation in the occupied regions of Georgia.

Responsibility of the Occupying Power for Human Rights Violations

3. While the territories of two regions of Georgia – Abkhazia, Georgia and the Tskhinvali Region, Georgia are occupied by the Russian Federation, human rights situation in these regions of Georgia remains alarming. The Russian Federation as the occupying power, exercises effective control over Abkhazia, Georgia and the Tskhinvali Region, Georgia. These two regions still remaining under foreign military occupation, constitute above all dangerous "black holes" in terms of holding the human rights violators accountable. The occupying power, exercising effective control, has been preventing numerous international organizations from entering Abkhazia, Georgia and the Tskhinvali Region, Georgia.

4. During the reporting period, namely at the Twenty-Fifth Annual Session of the OSCE Parliamentary Assembly, held from 1st to 5th July 2016, "Resolution on the Conflict in Georgia" was adopted.[1] According to the adopted resolution, "the Russian Federation

[1] Resolution on the Conflict in Georgia, Twenty-Fifth Annual Session of the OSCE Parliamentary

remains in breach of International Law by continuing the policy of occupation and creeping annexation of the regions of Georgia - Abkhazia and Tskhinvali/South Ossetia".[2] The resolution "[u]rges the Russian Federation to stop occupation of the territories of Georgia."[3] The resolution attested "the grave humanitarian and human rights situation in the occupied regions of Georgia – Abkhazia and Tskhinvali/South Ossetia."[4]

5. During the reporting period, namely on 29 September 2016, at the 33rd Session of the UN Human Rights Council, "Joint Statement on Georgia"[5] was made on behalf of 46 countries[6]. According to the Joint Statement, "[t]he international community remains deeply concerned by the human rights and humanitarian situation in both Georgian regions and the repeated denial of access to international actors, including Special Procedures and regional organizations to the regions. The above document further states "we recall the UN High Commissioner's assessment of the situation in both regions, during the last visit to Georgia in May 2014 and the refusal of those in control to allow the OHCHR the access to these regions. We continue to call for safe and unhindered access by international and regional human rights mechanisms to both regions for the benefit of all conflict-affected persons and those in need of protection. It is of an utmost importance to assist international monitors in concluding an objective and independent reporting of the situation on the ground."[7]

6. During the reporting period, namely on 13th September 2016, Mr Zeid Ra'ad Al Hussein, United Nations High Commissioner for Human Rights, while addressing the 33rd Session of the UN Human Rights Council, declared the following "I am deeply concerned over the repeated refusals to permit access for my staff to both Abkhazia and South Ossetia by those in effective control – despite the Secretary-General's emphasis on the importance of that access in the context of the Geneva International Discussions. We continue to receive allegations of violations, including killings, arbitrary detentions, torture and ill-treatment and restricted freedom of movement. Other serious concerns include unresolved queries regarding missing persons and persistent difficulties regarding access to livelihood, education, property rights and administrative documentation, as well as the need to ensure the space for civil society and independent media."[8]

7. It should be emphasized that in "Resolution on the Conflict in Georgia", the OSCE Parliamentary Assembly stated that the EUMM is the sole international monitoring

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Assembly, Tbilisi, Georgia, 1- 5 July 2016, pages 25-26, available at https://www.oscepa.org/documents/all-documents/annual-sessions/2016-tbilisi/declaration-24/3371-tbilisi-declaration-eng/file.

2 See paragraph 6.

3 See paragraph 12.

4 See paragraph 7.

5 Joint Statement on Georgia, 33rd Session of the UN Human Rights Council, 29 September 2016.

6 List of Countries: Albania, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Cyprus, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Honduras, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxemburg, Malta, Montenegro, Netherlands, New Zealand, Norway, Paraguay, Poland, Portugal, Republic of Moldova, Romania, San Marino, Slovakia, Slovenia, Spain, Sweden, Turkey, Ukraine, the UK, the USA.

7 Joint Statement on Georgia, 33rd Session of the UN Human Rights Council, 29 September 2016.

8 Opening Statement by Zeid Ra'ad Al Hussein, UN High Commissioner for Human Rights, Human Rights Council 33rd Session, Geneva, 13 September 2016, available at <http://www.ohchr.org/EN/NewsEvents/Pages/GlobalHumanRightsUpdate.aspx>

mechanism on the ground and is "regrettably unable to fulfill its mandate fully, while denied access to the occupied regions of Georgia - Abkhazia and Tskhinvali/South Ossetia."[9] In the same resolution, the OSCE Parliamentary Assembly urged "the Russian Federation to allow international human rights monitoring on the ground".[10]

8. The Council of Europe prepared its 14th Consolidated Report on the Conflict in Georgia describing, *inter alia,* human rights situation in Abkhazia, Georgia and the Tskhinvali Region, Georgia, and covering the period between April 2016 and September 2016.[11] It should be noted that the delegation of the secretariat of the Council of Europe carried out a fact-finding visit to Georgia on 12-13 September 2016 for the purpose of the consolidated report, however was not allowed to visit Abkhazia, Georgia and the Tskhinvali region, Georgia.[12]

9. Occupation policy of the Russian Federation regarding the territory of Georgia deprives several hundreds of thousands of IDPs of their internationally recognized right to a voluntary, safe and dignified return to places of their permanent residence. According to the Council of Europe, "as regards the right of refugees and Internally Displaced Persons (IDPs) to a safe, dignified and voluntary return, regrettably no progress can be reported."[13] In "Resolution on the Conflict in Georgia", the OSCE Parliamentary Assembly expressed "concern about the humanitarian situation of the internally displaced persons and refugees, continuously being deprived of the right to voluntary, safe, dignified, and unhindered return to their places of origin, as well as the right to property".[14] In the same resolution, the OSCE Parliamentary Assembly urged "the Russian Federation to allow the safe, dignified, and unhindered return of all internally displaced persons and refugees to their places of origin".[15]

10. It should be noted that during the reporting period, namely from 26th to 29th September 2016, Mr Chaloka Beyani, the UN Special Rapporteur on the Human Rights of Internally Displaced Persons visited Georgia, but was not allowed to visit the occupied regions of Georgia.

11. As already described in the second quarterly report of the Ministry of Foreign Affairs of Georgia covering the period of April-June 2016, in May 2016 the European Union Special Representative (EUSR) Ambassador Herbert Salber commissioned an independent Senior Expert, Mr. Thomas Hammerberg, to assess the human rights situation in Abkhazia, Georgia. It should be recalled that this initiative is based on humanitarian considerations and is in line with EU's non-recognition and engagement policy; it is

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[9] Resolution on the Conflict in Georgia, Twenty-Fifth Annual Session of the OSCE Parliamentary Assembly, Tbilisi, Georgia, 1- 5 July 2016, pages 25-26, paragraph 10, available at https://www.oscepa.org/documents/all-documents/annual-sessions/2016-tbilisi/declaration-24/3371-tbilisi-declaration-eng/file.

[10] See paragraph 17.

[11] Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2016), 2016, SG/Inf (2016) 37.

[12] Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2016), 2016, SG/Inf (2016) 37, paragraph 5.

[13] Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2016), 2016, SG/Inf (2016) 37, paragraph 61.

[14] Resolution on the Conflict in Georgia, Twenty-Fifth Annual Session of the OSCE Parliamentary Assembly, Tbilisi, Georgia, 1- 5 July 2016, pages 25-26, paragraph 8, available at https://www.oscepa.org/documents/all-documents/annual-sessions/2016-tbilisi/declaration-24/3371-tbilisi-declaration-eng/file.

[15] See paragraph 17.

launched under the human rights component of the EUSR's mandate. According to the agreed modalities, Senior Expert, Mr. Thomas Hammerberg will prepare a report for the EUSR in the autumn 2016, based on several study visits to Tbilisi, Zugdidi, Sokhumi and Gali. During the reporting period, namely between 9 and 17 May 2016, between 8 and 17 June 2016 and between 15 and 23 September 2016, Mr. Thomas Hammerberg visited Tbilisi, Zugdidi, Sokhumi, Gali and other districts of Abkhazia region. It should be noted here that the above initiative poses one-time assessment by the independent expert and it does not imply a regular monitoring or fact finding mechanism. Besides, it does not aim to assess the human rights situation in Tskhinvali region, Georgia.

12. It should be recalled here that during the reporting period of the second quarterly report of the Ministry of Foreign Affairs of Georgia covering the period of April-June 2016, namely on 19 May 2016 Mr. Giga Otkhozoria, was murdered by so called "border guards" deployed along the occupation line with Abkhazia. The murder was committed in the village of Khurcha, Zugdidi district, located in the territory controlled by the central government of Georgia. The murderer of Mr. Giga Otkhozoria has been identified – Mr. Rashid Kanji-Ogli. Mr. Rashid Kanji-Ogli and his accomplices fled to the occupied territory of Abkhazia immediately after committing the murder. The Prosecutor's Office of Georgia filed charges against Mr. Rashid Kanji-Ogli for the premeditated murder of Mr. Giga Otkhozoria and criminal prosecution was launched under the Criminal Code of Georgia. However under the existing circumstances, during the reporting period of the present report, it was still impossible for Georgia's Prosecutor's Office as well as for the courts of common jurisdiction of Georgia to deliver justice. Thus throughout the reporting period of the present report, Mr. Rashid Kanji-Ogli and his accomplices remained unpunished. It should be noted that during the reporting period Mr. Khajimba publicly declared that Mr. Rashid Kanji-Ogli would not be handed over to the Georgian side.[16] The above situation with regard to the violation of the right to life of Mr. Giga Otkhozoria once again demonstrates that the occupied territories of Georgia remain "black holes" in terms of holding the violators of human rights accountable. The above situation further reaffirms the need of immediate, unhindered and continuous access of international human rights monitoring mechanisms in the occupied territories of Georgia.

Occupation Line and Installation of Barbed Wire Fences and other Artificial Obstacles

13. The occupation line along the administrative boundary line (ABL) with Abkhazia and the Tskhinvali Region separates Georgia from its two occupied territories. The process of so called "borderization" was commenced in 2011 (April/May). Since February 2013 the Russian occupation forces intensified the process of the installation of razor wire and barbed wire fences, so called "border" signs and other artificial obstacles along the occupation lines in Abkhazia and the Tskhinvali Region. Currently, the total length of razor wire and barbed wire fences and other artificial obstacles along the occupation line in Tskhinvali Region is nearly 52 km (overall length of the occupation line is more than 350 km) and along the occupation line in Abkhazia is 48 km (overall length of the occupation line is around 145 km).

14. The international community regularly has been expressing concern regarding the process of installation of razor wire and barbed wire fences, so called "border" signs and other artificial obstacles along the occupation lines and has been stressing the negative

[16] Abkhazia will not hand over to Georgia border guard suspected in murder, "Ria Novosti", 6 July 2016, available at https://ria.ru/world/20160706/1459757274.html.

impact of this process on human rights of local population. Below there are several examples of such reactions in the reporting period.

15. In its "Resolution on the Conflict in Georgia", the OSCE Parliamentary Assembly deplored "the process of the installation of razor wire fences and embankments by the Russian occupation forces along the occupation line, dividing the local population and depriving them of fundamental rights and freedoms, including, but not limited to, the freedom of movement, family life, right to property, education in their native language, and other civil and economic rights."[17]

16. The Council of Europe, in its 14th Consolidated Report on the Conflict in Georgia, covering the period between April 2016 and September 2016 and thus fully covering the reporting period of the present report, stated the following: "serious human rights concerns remain in relation to the conflict divide. The "borderisation process", as well as regular incidence of detentions across the ABL have been repeatedly highlighted as the major negative patterns affecting in turn, but not limited to, the freedom of movement, the right to property and family life, the right to education in native language, as well as social and economic rights of the population on both sides of the ABL."[18]

17. As already mentioned, Mr Chaloka Beyani, the UN Special Rapporteur on the Human Rights of Internally Displaced Persons was not allowed to visit the occupied regions of Georgia, however he visited adjacent areas of the occupation line and stated the following in his written statement: "I regret that the razor wire fence along the administrative boundary line of the Tskhinvali region/South Ossetia, Georgia, continues to have the effect of depriving internally displaced persons and displacement affected communities of freedom of movement and creates tangible obstacles to their access to land, property and livelihoods."[19]

18. During the reporting period, namely on 8th September 2016, the US Congress House of Representatives adopted a resolution in support of territorial integrity of Georgia.[20] According to the adopted resolution, "the Russian Federation is building barbed wire fences and installing, so-called "border signs" and other artificial barriers along the occupation line and depriving the people residing within the occupied regions and in the adjacent areas of their fundamental rights and freedoms, including, but not limited to the freedom of movement, family life, education in their native language, and other civil and economic rights".

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[17] Resolution on the Conflict in Georgia, Twenty-Fifth Annual Session of the OSCE Parliamentary Assembly, Tbilisi, Georgia, 1- 5 July 2016, pages 25-26, paragraph 9, available at https://www.oscepa.org/documents/all-documents/annual-sessions/2016-tbilisi/declaration-24/3371-tbilisi-declaration-eng/file.

[18] Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2016), 2016, SG/Inf (2016) 37, paragraph 33.

[19] United Nations expert calls for transition to needs-based approaches to address the situation of IDPs in Georgia, Statement from Special Rapporteur on the Human Rights of Internally Displaced Persons, Mr Chaloka Beyani. United Nations Human Rights Office of the High Commissioner, 6 October 2016.

[20] Resolution in support territorial integrity of Georgia, the US Congress House of Representatives, 8 September 2016, available at <https://www.congress.gov/bill/114th-congress/house-resolution/660/text>

New so called "Laws"

19. The Ministry of Foreign Affairs of Georgia once again expresses its serious concern on the adoption of new discriminatory regulations for ethnic Georgians living in the occupied regions of Georgia. There is threat that this so called "laws" can become ground for another wave of ethnic cleansing.

20. It should be recalled here that on 1st April 2016, so called "law on legal status of foreign citizens in Abkhazia" and "law on entry and exit of Abkhazia" became operational. Similar document was adopted by the Tskhinvali occupation regime, namely so called "law on legal status of foreigners in the Republic of South Ossetia". Adoption of so called "laws" in many ways target the ethnic Georgian population living in the occupied territories.

21. So called "law on legal status of foreign citizens in Abkhazia" aims to qualify ethnic Georgians, living in the region of Abkhazia, into a category of "foreign citizens" and to discriminate against them in many ways. Many ethnic Georgians living in Abkhazia, predominantly in Gali district, hold Georgian citizenship that qualifies them into the category of "foreigners" under the so called "law on legal status of foreign citizens in Abkhazia" and therefore puts limitation on their human rights including on the freedom of movement, the right to property and labour rights. Under this so called "law" ethnic Georgians holding Georgian citizenship are deprived possibility to obtain residence permits and respective restrictive clauses prepare "legal" ground for persecution of ethnic Georgian families. According to the Council of Europe, "the application of the *de facto* law in Gali appears to have been put on hold. While this could be an indication that *de facto* authorities recognise that the *de facto* law is problematic and cannot be implemented in its current form, the delegation was informed that several consecutive motions to introduce amendments have been rejected at the level of the *de facto* parliamentary committee."[21]

22. By the adoption of so called "law on entry and exit of Abkhazia", the decision has been made to introduce visas for states a) not recognizing so called "independence of Abkhazia" and b) not having a "bilateral agreement" of visa free travel. Under this so called "law" any person can exit Abkhazia, however only so called "citizens of Abkhazia" can enter Abkhazia without additional formalities. It should be noted that a foreign citizen or a person without citizenship can be expelled from the territory of occupied Abkhazia if that person poses a threat to defense and security or to public order. It should be emphasized that this so called "law", creates additional obstacles to representatives of international organizations leading to further isolation of the region. According to the Council of Europe, "there is also a shared perception that the operational environment has become more challenging, partially in connection to the application of new procedures and rules on access; the delegation was informed that, during the reporting period, staff of international organisations had experienced restrictions when traveling to Abkhazia and that on several occasions had been interviewed by the members of the local security services. Georgian staff from international organisations and NGOs are prevented from entering Abkhazia."[22] It has been further argued by the Council of Europe that "[a]ambiguity surrounds the application of the new *de facto* law on procedures of entry into and exit from Abkhazia, which requires, *inter alia,* that citizens of all countries that have not signed "a visa-free agreement" with Abkhazia to obtain an "entry visa". The delegation learnt about instances

[21] Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2016), 2016, SG/Inf (2016) 37, paragraph 46.

[22] Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2016), 2016, SG/Inf (2016) 37, paragraph 27.

when these reciprocity provisions were apparently tested in practice resulting in further complications of the crossing regime."[23]

New Wave of so called "Passportisation"

23. The adoption of the above-mentioned so called "laws" by the occupation regimes of Sokhumi and Tskhinvali is directly linked to the new illegal wave of "passportization" in the occupied territories.

24. It should be recalled here that the process of so called "passportisation" in the occupied Abkhazia implies procession and distribution of 300 thousand new documents - 250 thousand so called "passports" and 50 thousand so called "residence permits". All 300 000 documents were already processed in the Russian Federation by "Goznak" and their distribution was postponed several times.

25. The purpose of so called "passportisation" in the occupied Abkhazia is to classify the population into categories of "citizens of Abkhazia" and "foreign citizens". Those residents of Abkhazia that are not citizens of Georgia, will be eligible to obtain so called "Abkhazian passports". It should be recalled here that in 2014, so called "parliament" of the Sokhumi occupation regime adopted so called "decree" by which it annulled so called "Abkhaz passports" of around 25 000 ethnic Georgians living in Abkhazia, predominantly in Gali district.[24] Nowadays it has become evident that so called "Abkhaz passports" of 25 000 ethnic Georgians were cancelled in order to give to ethnic Georgians the status of "foreign citizens" that implies lots of restrictions on their human rights. On 16th September 2016, so called "minister of interior" of the Sokhumi occupation regime declared that it was a right decision in 2014 to invalidate so called "Abkhaz passports" of 26 000 ethnic Georgians.[25] According to the Council of Europe, "the situation with the identity and residence documents of the ethnic Georgian population living in Gali (and to a lesser extent in Ochamchira and Tkvarcheli) continues to be marked by lack of clarity. It is recalled that the large majority of the local population lacks valid identity documents following the invalidation of their Abkhaz *de facto* passports, many of which were subsequently withdrawn."[26] According to the information disseminated on 12th July 2016, so called "Prosecutor's Office" of the Sokhumi occupation regime completed investigation against former so called "Head of Gali District" and filed "criminal charges" (consisting of 150 volumes) against him in so called "court".[27] According to "Prosecutor's Office" of the Sokhumi occupation regime, between the years 2007 and 2014, former so called "Head of Gali District", improperly issued so called "Abkhaz passports" to 14 988 residents of Gali district which were holders of the Georgian citizenship.[28]

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[23] Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2016), 2016, SG/Inf (2016) 37, paragraph 43.

[24] The Realm of the Possible - Finding ways forward in the Georgian-Abkhaz context: People in the Gal/I region, Conciliation Resources, July 2015, pages 4 and 5.available at < http://www.c-r.org/downloads/CR_The-Realm-of-the-possible_Gal-i_43_weEn.pdf >.

[25] Aslan Kobakhia: Change of passports is under a strict control,"Abkhazinform", 16 September 2016, available at http://abkhazinform.com/item/4576-aslan-kobakhia-obmen-pasportov-postavlen-pod-zhestkij-kontrol.

[26] Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2016), 2016, SG/Inf (2016) 37, paragraph 45.

[27] Passport case against former head of Gali district was in sent to court. "Apsnypress", 12 July 2016, available at http://www.apsnypress.info/news/pasportnoe-delo-v-otnoshenii-eks-glavy-galskogo-rayona-napravleno-v-sud/.

[28] Passport case against former head of Gali district was in sent to court. "Apsnypress", 12 July 2016,

26. So called "minister of interior" of the Sokhumi occupation regime declared that distribution of so called "Abkhaz passports" will be under strict control in order to avoid the situation which was in the past.[29] It should be noted that the distribution of so called "Abkhaz passports" and so called "residence permits" did not start in Gali district.[30] It has been argued that 96 per cent of Gali district population has the Georgian citizenship.[31]

27. It should be emphasized that as part of so called "passportisation", by 16th September 2016 only 330 residents of the occupied Abkhazia received new so called "Abkhazian passports".[32] According to so called "minister of interior" of the Sokhumi occupation regime, it is planned to complete the process of so called "passportisation" in eastern part by March 2017; there is no need to complete the whole process of so called "passportisation" by March 2017.[33]

28. Since the partial completion of distribution of so called "Abkhazian passports" is planned by March 2017, the real impact of so called "passportisation" on ethnic Georgians residing in the occupied Abkhazia will start to become obvious from the above date. On the other hand, the completion of the process of so called "passportisation" is undoubtedly a precondition for the factual realization of the adopted so called "laws" on legal status of foreigners and on entry and exit. Undoubtedly, this so called "passportisation" in the occupied Abkhazia and the Tskhinvali region may result in a situation where individuals, not eligible to so called new "passports" or so called new "residence permits", face more complications regarding the right to property and the freedom of movement across the occupation line. Ethnic Georgians residing in the occupied region of Abkhazia have all grounds to be concerned about such perspective; status of a "foreigner" can at least restrict their right to property and deteriorate prospects of movement across the occupation line and, in the worst case, become ground for another wave of ethnic cleansing.

29. According to the Council of Europe, "it is evident that the documentation gap is widening and the local population is becoming increasingly wary of the perpetuation of the legal status limbo. Pending a viable solution, international humanitarian actors have called upon the *de facto* authorities to urgently undertake outreach efforts and offer assurances, in

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available at http://www.apsnypress.info/news/pasportnoe-delo-v-otnoshenii-eks-glavy-galskogo-rayona-napravleno-v-sud/.

[29] Aslan Kobakhia: Change of passports is under a strict control, "Abkhazinform", 16 September 2016, available at http://abkhazinform.com/item/4576-aslan-kobakhiya-obmen-pasportov-postavlen-pod-zhestkij-kontrol.

[30] Timur Nadaraia: "our aim is to strengthen the district and increase the budget of the state", "aiaaira.com", 19 July 2016, available at http://aiaaira.com/news/intervyu/timur_nadaraya_nasha_zadacha_ukreplyat_rayon_i_uvelichivat_byudzhet_gosudarstva/.

[31] Timur Nadaraia: "our aim is to strengthen the district and increase the budget of the state", "aiaaira.com", 19 July 2016, available at http://aiaaira.com/news/intervyu/timur_nadaraya_nasha_zadacha_ukreplyat_rayon_i_uvelichivat_byudzhet_gosudarstva/.

[32] Dzapsha: New Abkhazian Passports will be Distributed from 10th July, "Apsny", 20 June 2016, available at <http://apsny.ru/news/?ID=22876>; As for occupied Tskhinvali region, in June 2015, the Tskhinvali occupation regime began accepting applications for so called "South Ossetian passports," which required individuals renounce their Georgian citizenship.

[33] Minister of Interior: 330 new Abkhaz passports already distributed, "Apsnypress", 16 September 2016, available at http://www.apsnypress.info/news/ministr-vd-330-novykh-abkhazskikh-pasportov-uzhe-vydano/.

order to counter any perception of uncertainty and ethnic based discrimination that in turn risk prompting new displacement."[34]

II. Freedom from torture and ill-treatment

30. The practice of torture and ill-treatment in the occupied regions of Georgia remained an issue of concern during the reporting period. According to the Council of Europe, in the Abkhazian region, "[a]against the background of on-going "borderisation", very serious concerns persist with respect to freedom of movement. Detentions for "illegal border crossing" or "violation of the border zone regime" continue to occur. According to the delegation's interlocutors, some 30 detentions are registered per month, although it is recognised that not all cases are reported. In this respect, the Office of the Public Defender of Georgia raised strong concerns about allegations that in some cases, those detained were subjected to physical abuse and even forced labour, deepening the sense of insecurity."[35] It has been further argued by the Council of Europe that in Tskhinvali Region "aallegations of physical abuse during apprehension have been reported in some of the cases."[36] Below are only few examples.

31. On 26th July 2016, in the vicinity of the village of Kirbali, Gori district, nearby of the occupation line with Tskhinvali region, the Russian FSB officers while attempting to illegally detain a local resident physically assaulted him. The beaten local resident was later transported by ambulance to the hospital in the town of Gori, the territory controlled by the central government of Georgia.[37]

32. On 5th August 2016, after three days in detention in so called "detention centre of Tskhinvali", illegally detained resident of the village of Kveshi, Gori district was released. The released man was immediately transported to a hospital in the town of Gori due to severe physical assault he was subject in the process of detention by the Russian FSB officers. According to the doctor of the Gori hospital, health condition of the patient from the village of Kveshi was grave when received for treatment due to brain concussion and bruises in different areas of the body. According to the victim, he was nearby his house, namely he was working in his orchard on the territory controlled by the central government of Georgia when six armed men came to him and tried to detain him. He did not obey to the

[34] Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2016), 2016, SG/Inf (2016) 37, paragraph 48.

[35] Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2016), 2016, SG/Inf (2016) 37, paragraph 42.

[36] Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2016), 2016, SG/Inf (2016) 37, paragraph 57.

[37] Urgent: Russian occupants have beaten a man in Gori district, "Newpost.ge", 26 July 2016, available at <http://www.newposts.ge/?l=G&id=115041-%E1%83%9D%E1%83%99%E1%83%A3%E1%83%9E%E1%83%90%E1%83%9C%E1%83%97%E1%83%94%E1%83%91%E1%83%98%2C+%E1%83%9B%E1%83%90%E1%83%9B%E1%83%90%E1%83%99%E1%83%90%E1%83%AA%E1%83%98%2C+%E1%83%AA%E1%83%94%E1%83%9B%E1%83%90>; Representatives of occupying forces tried to abduct a resident of the village of Kirbali, "Interpress news", 27 July 2016, available at http://www.interpressnews.ge/ge/konfliqtebi/390227-saokupacio-dzalebis-tsarmomadgenlebma-sofel-kirbalis-mkvidris-gataceba-scades.html?ar=A.

orders of the Russian FSB officers that resulted in severe beating of him and in his abduction to the direction of the occupied Tskhinvali region.[38]

III. Arbitrary detention

33. The Russian FSB officers regularly carry out arbitrary detention for so called "illegal border crossing" along the occupation lines with Abkhazia and Tskhinvali regions.

34. According to the Council of Europe, for example, in the Tskhinvali Region "detentions for "violation of the state border" occur on a regular basis, mostly due to local residents crossing the ABL, intentionally or inadvertently to chase stray cattle, access livelihoods or visit the area, including for participating in religious and funeral services. Detention numbers remain at the same level: according to the Georgian Security Service, as of mid-September, 109 people have been detained since the start of the year. Allegations of physical abuse during apprehension have been reported in some of the cases. While in most instances those detained are released after paying a "fine" the Georgian authorities brought to the attention of the delegation the case of a Georgian national who was arrested for "illegal border crossing" in June, and latter remanded to pre-trial detention in Tskhinvali on new charges apparently in connection to the August 2008 conflict."[39] To be more precise with regard to the last sentence of the above observation, on 8 June 2016, Mr. Giorgi Giunashvil, citizen of Georgia was detained by the Russian FSB officers for so called "illegal border crossing" along the occupation line with Tskhinvali region. Initially, the detainee was sentenced two months of imprisonment for so called "illegal border crossing". Later, namely during the reporting period, so called "Prosecutor's Office" of the Tskhinvali occupation regime initiated "criminal case" against Mr. Giorgi Giunashvil accusing him of "causing serious damage to the health" of an unspecified resident of the Tskhinavli region in the year 2008.[40] The central government of Georgia consider the above accusations against Mr. Giorgi Giunashvil to be forged and absolutely ungrounded.[41] It is alarming that Mr. Giorgi Giunashvil remained in illegal detention throughout the reporting period.

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[38] Released detainee from the Tskhinvali detention centre is beaten, "Interpress news", 7 August 2016, available at <http://www.interpressnews.ge/ge/konfliqtebi/391659-ckhinvalis-izolatoridan-gathavisuflebuli-aleqsandre-sheverdashvili-nacemia.html?ar=A>; Georgian citizen released from the Tskhinvali detention centre is beaten, "GHN", 7 August 2016, available at http://ghn.ge/com/news/view/157519.

[39] Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2016), 2016, SG/Inf (2016) 37, paragraphs 57-58.

[40] IPRM Meeting held in Ergneti, State Security Service of Georgia, 19 July 2016, available at <http://ssg.gov.ge/en/news/152/IPRM-Meeting-Held-in-Ergneti>; 10 issues discussed in the framework of Incident Prevention and Reaction Mechanism (IPRM), "Kvira.ge", 19 July 2016, available at http://kvira.ge/%E1%83%98%E1%83%9C%E1%83%AA%E1%83%98%E1%83%93%E1%83%94%E1%83%9C%E1%83%A2%E1%83%94%E1%83%91%E1%83%98%E1%83%A1-%E1%83%9E%E1%83%A0%E1%83%94%E1%83%95%E1%83%94%E1%83%9C%E1%83%AA%E1%83%98%E1%83%98-4/.

[41] 10 issues discussed in the framework of Incident Prevention and Reaction Mechanism (IPRM), "Kvira.ge", 19 July 2016, available at http://kvira.ge/%E1%83%98%E1%83%9C%E1%83%AA%E1%83%98%E1%83%93%E1%83%94%E1%83%9C%E1%83%A2%E1%83%94%E1%83%91%E1%83%98%E1%83%A1-%E1%83%9E%E1%83%A0%E1%83%94%E1%83%95%E1%83%94%E1%83%9C%E1%83%AA%E1%83%98%E1%83%98-4/.

35. During the reporting period numerous cases were reported on arbitrary detention in the occupied regions of Georgia. Below are only few examples.

36. On 13 August 2016, the Russian FSB officers crossed the occupation line with Abkhazia and detained two citizens of Georgia in the village of Rukhi. Both detainees were abducted to so called "Gali detention centre" on the territory of the occupied Abkhazia. Two citizens of Georgia did not cross the occupation line, but they were swimming in the river when they were illegally detained. The Russian FSB officers even fired a warning shot in the air in order to carry out detention.[42]

37. On 4th September 2016, a resident of the village of Zardiantkari, Gori district, was detained by the Russian FSB officers for so called "illegal border crossing" along the occupation line with Tskhinvali region. The villager crossed the occupation line in order to attend funeral ceremony in the village of Khelchuashi in the occupied Tskhinvali region. The detainee was transported to so called "detention centre of Tskhinvali".[43]

38. On 11th September 2016, a resident of the village of Koshka, Gori district, was detained by the Russian FSB officers for so called "illegal border crossing". The resident of the village of Koshka was nearby the village for cattle grazing; however he did not cross the occupation line. The Russian FSB officers entered into the territory controlled by the central government of Georgia and abducted him to the occupied Tskhivali region.[44]

39. On 12th September 2016, three residents of Khashuri were detained by the Russian FSB officers for so called "illegal border crossing". These three people were in Tcheratkhevi gorge forest when they were detained by the Russian FSB officers, thus they did not cross the occupation line. All three people were abducted to the occupied Tskhinvali region.[45]

40. On 16th September 2016, a 17-year-old resident of the village of Upper Sobisi, Gori district was detained in the village of Bershueti, Gori district by the Russian FSB officers for so called "illegal border crossing". The resident of the village of Upper Sobisi, Gori district did not cross the occupation line with Tskhinvali region; he was visiting church in

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[42] Urgent: Occupants abducted 2 citizens of Georgia from the village of Rukhi, "Newpost.ge", 13 August 2016, available at < http://www.newposts.ge/?l=G&id=116398-%E1%83%92%E1%83%90%20%E1%83%A2%E1%83%90%E1%83%AA%E1%83%94%E1%83%91%E1%83%90,%20%E1%83%A0%E1%83%A3%E1%83%AE%E1%83%98>.

[43] Representatives of the occupation regime detained man in the village of Khelchuashi during the funeral ceremony, "Newpost.ge", 9 September 2016, available at < http://www.newposts.ge/?l=G&id=118016-%E1%83%A1%E1%83%90%E1%83%9D%E1%83%99%E1%83%A3%E1%83%9E%E1%83%90%E1%83%AA%E1%83%98%E1%83%9D,%20%E1%83%A0%E1%83%94%E1%83%9F%E1%83%98%E1%83%9B%E1%83%98,%20%E1%83%93%E1%83%90%E1%83%90%E1%83%99%E1%83%90%E1%83%95%E1%83%94%E1>.

[44] Russian occupants abducted a resident of the village of Koshka, Gori district, "Newpost.ge", 11 September 2016, available at http://www.newposts.ge/?l=G&id=118753-%E1%83%9D%E1%83%99%E1%83%A3%E1%83%9E%E1%83%90%E1%83%9C%E1%83%A2%E1%83%94%E1%83%91%E1%83%98,%20%E1%83%92%E1%83%90%E1%83%A2%E1%83%90%E1%83%AA%E1%83%94%E1%83%91%E1%83%90,%20%E1%83%A0%E1%83%A3%E1%83%A1%E1%83%94%E1%83%91%E1%83%98.

[45] Another abduction from the Georgian controlled territory: 3 Georgians are in captivity of occupants, "Newpost.ge", 12 September 2016, available at http://www.newposts.ge/?l=G&id=118814.

the village of Bershueti when he was detained and abducted to the occupied Tskhinvali region.[46]

IV. Freedom of movement

41. Restrictions on freedom of movement remain an issue of concern that has been attested by the various sources made available in the reporting period.

42. Mr Chaloka Beyani, the UN Special Rapporteur on the Human Rights of Internally Displaced Persons stated the following in his written statement: "I regret that the razor wire fence along the administrative boundary line of the Tskhinvali region/South Ossetia, Georgia, continues to have the effect of depriving internally displaced persons and displacement affected communities of freedom of movement."[47] In the same written statement we read that Mr Chaloka Beyani met with IDPs returned at Khurcha and Inguri crossing points and those they shared "their experience and most pressing concerns, including the lack of access to documentation affecting many, which has an extremely negative impact on their freedom of movement".[48] According to Special Rapporteur, in the Abkhazian region "other major concerns he highlighted related to detention for "illegal" crossings of the dividing line, the closure of two crossing points over the past few months the risk that more will be closed in the near future."[49]

43. According to the Council of Europe, in the Abkhazian region "as of May [2016], two crossing points in Lekukhona and Tagiloni were closed down. Currently four crossing points continue to function. However, the *de facto* authorities appear intent on closing down two of them, once the relevant infrastructure has been rehabilitated."[50] It has been argued that in the Abkhazian region "the "borderisation" process and the related constraints of freedom of movement exacerbate the conflict divide, contribute to isolation of communities and affect in multiple negative ways the human rights of the local population, in particular in Gali. The process has continued to draw strong criticism from the Georgian government as well as various international bodies and governments. International humanitarian actors have continued to advise strongly against such restrictions, including the closure of additional crossing points."[51]

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[46] *A minor person was abducted from Gori district*, "Newpost.ge", 16 September 2016, available at <http://www.newposts.ge/?l=G&id=119365>

[47] United Nations expert calls for transition to needs-based approaches to address the situation of IDPs in Georgia, Statement from Special Rapporteur on the Human Rights of Internally Displaced Persons, Mr Chaloka Beyani. United Nations Human Rights Office of the High Commissioner, 6 October 2016.

[48] United Nations expert calls for transition to needs-based approaches to address the situation of IDPs in Georgia, Statement from Special Rapporteur on the Human Rights of Internally Displaced Persons, Mr Chaloka Beyani. United Nations Human Rights Office of the High Commissioner, 6 October 2016.

[49] United Nations expert calls for transition to needs-based approaches to address the situation of IDPs in Georgia, Statement from Special Rapporteur on the Human Rights of Internally Displaced Persons, Mr Chaloka Beyani. United Nations Human Rights Office of the High Commissioner, 6 October 2016.

[50] Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2016), 2016, SG/Inf (2016) 37, paragraph 41.

[51] Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2016), 2016, SG/Inf (2016) 37, paragraph 44.

44. It should be noted that during the reporting period Mr. Khajimba declared that only one crossing point will remain over the River Enguri, all others will be closed down.[52] According to residents of adjacent territories to Zugdidi and Gali districts, control imposed on their movement is already tightened due to the activities of the Russian FSB officers: "what to do? How to live when we even cannot move normally? Where to get food products?" - these are question posed by them.[53]

45. It should be emphasized that on 4th July 2016, Mr. Tibilov publicly declared that so called "border" with Georgia in the future would be even more tightened with the assistance of the Russian Federation.[54] According to the Council of Europe, "as reported to the delegation, as of next year, the *de facto* authorities plan to start issuing new registration/crossing permissions *(propusks)* for the ethnic Georgian residents of Akhalgori, the majority of whom have an IDP status and reside in territory controlled by the Georgian central government. The measure is reportedly related to the expiration of previously issued documents, even though it seems that *de facto* authorities continue to allow their use. In this respect, some humanitarian actors expressed caution about the fact that the number of those who receive documentation tends to decrease with each new turn. It is estimated that lack of regular documentation hampers the free movement of some 5000 persons from the Akhalgori district."[55]

46. According to the information disseminated on 15th July 2016, residents of so called "border zone" villages of Znauri district located in the territory of the occupied Tskhinvali region, wrote letters to so called "president", "parliament" and "government" of the Tskhinvali occupation regime and demanded removal of checkpoints from their villages. According to the demands of the local residents, existing checkpoints violate their freedom of movement. They argue that these checkpoints and regular control hinder free movement of local residents across their villages which are located around six kilometers away from the occupation line. Local residents complain that the daily life and communication is hard in so called "border zones" located nearby the occupation line.[56] It should be noted that in

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[52] Khajimba has confirmed: the Abkhaz side will keep only one crossing point over Enguri, "Accent.com", 6 July 2016, available at http://accent.com.ge/ge/news/details/18400-%E1%83%AE%E1%83%90%E1%83%AF%E1%83%98%E1%83%9B%E1%83%91%E1%83%90%E1%83%9B-%E1%83%93%E1%83%90%E1%83%90%E1%83%93%E1%83%90%E1%83%A1%E1%83%A2%E1%83%A3%E1%83%A0%E1%83%90-%E1%83%90%E1%83%A4%E1%83%AE%E1%83%90%E1%83%96%E1%.

[53] Khajimba has confirmed: the Abkhaz side will keep only one crossing point over Enguri, "Accent.com", 6 July 2016, available at http://accent.com.ge/ge/news/details/18400-%E1%83%AE%E1%83%90%E1%83%AF%E1%83%98%E1%83%9B%E1%83%91%E1%83%90%E1%83%9B-%E1%83%93%E1%83%90%E1%83%90%E1%83%93%E1%83%90%E1%83%A1%E1%83%A2%E1%83%A3%E1%83%A0%E1%83%90-%E1%83%90%E1%83%A4%E1%83%AE%E1%83%90%E1%83%96%E1%.

[54] Tibilov plans to more seriously tighten so called border with Georgia, "Kvira.ge", 4 July 2016, available at <http://kvira.ge/%E1%83%97%E1%83%98%E1%83%91%E1%83%98%E1%83%9A%E1%83%9D%E1%83%95%E1%83%98-%E1%83%A1%E1%83%90%E1%83%A5%E1%83%90%E1%83%A0%E1%83%97%E1%83%95%E1%83%94%E1%83%9A%E1%83%9D%E1%83%A1%E1%83%97%E1%83%90-2/

[55] Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2016), 2016, SG/Inf (2016) 37, paragraph 59.

[56] This is not nice and very humiliating, "Ckhokavkaza", 15 July 2016, available at http://www.ckhokavkaza.com/a/27860884.html

2012 decision was made in the occupied Tskhinvali region to extend the "border zone" in the adjacent areas of the occupation line. So called "border zone" implies particular restrictions of freedom of movement and there is a need to have special permit" issued by so called "Border Security Service of South Ossetia" in order to enter the "border zone".[57]

V. Right to property

47. During the reporting period, violations of the right to proper in the occupied regions of Georgia remained the issue of concern for the international mmunity. It should be emphasized that in "Resolution on the Conflict in Georgia", the SCE Parliamentary Assembly expressed "concern about the humanitarian situation of the nternally displaced persons and refugees, continuously being deprived of the right to volun ry, safe, dignified, and unhindered return to their places of origin, as well as the right to property".[58] Mr Chaloka Beyani, the UN Special Rapporteur on the Human Rights of nternally Displaced Persons stated the following in his written statement: "I regret that e razor wire fence along the administrative boundary line of the Tskhinvali region/Sou Ossetia, Georgia, creates tangible obstacles to their access to land, property and livelihoo ".[59]

48. According to the Council of Europe, its "delegation received nformation about new "borderisation" activities along the ABL with South Ossetia. While AL fencing has been erased, the installation of "border sig posts" (some 200 so far) seem increasingly problematic. Their appearance at several locations during the piod under review continued to lead to effective loss of access to property and livelihoods as well as detention of the local population. The delegation's attention was drawn to a ca from August 2016 where tensions heightened after Georgian farmers were not allowed t harvest their crops and due to the installation of a new signpost in the Gdoleti area."[60]

49. On 23rd August 2016, the Russian FSB officers, deployed in th Tskhinvali region, entered the vicinity of the village of Sobisi, Gori district and by usin combine harvester started to harvest barley in the land property of two local residents. In the morning of 24th August 2016, local landowners discovered that barley harvesting w ongoing and barley from around 2 hectares of their land property had been already harvest. The Russian FSB officers declared to local landowners that their agricultural plots of la were not on "the territory of Georgia". According to one of the landowners, his family wns the plot of land for years and it is located on the territory controlled by the central gvernment of Georgia. According to him, he was cultivating his plot of land throughout the year and had spent significant amount of money in order to gain barley harvest of around 0 tones and now he

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[57] Security Council of South Ossetia will consider issues related to visiting bord zone, "Sputnik-Ossetia", 2 August 2016, available at http://sputnik-ossetia.ru/South_Ossetia/20160802/2023901.html.

[58] Resolution on the Conflict in Georgia, Twenty-fifth Annual Session of the OSCE Parliamentary Assembly, 1- 5 July 2016, pages 25-26, paragraph 9, available at https://www.oscepa.org/documents/all-documents/annual-sessions/2016-helsinki/declaration-24/3371-helsinki-declaration-eng/file.

[59] United Nations expert calls for transition to needs-based approaches to address the situation of IDPs in Georgia, Statement from Special Rapporteur on the Human Rights of Internally Displaced Persons, Mr Chaloka Beyani. United Nations Human Rights Office of the High Commissioner, 6 October 2016.

[60] Consolidated Report on the Conflict in Georgia, Council of Europe (April 201 – September 2016), 2016, SG/Inf (2016) 37, paragraph 54.

is banned by the Russian FSB officers to enter his land property. The landowner recalled that last year the Russian FSB officers had approached him and had told that part of his agricultural land property, namely around 6 hectares was not on "the territory of Georgia". It should be noted that on 24th August 2016, as a result of a reaction from the central government of Georgia, combine harvester ceased harvesting barley and, on 25th August 2016, local residents were given only 5 hours by the Russian FSB officers in order to harvest remaining barley from their land, however this move did not solve the issue of ownership of their land property.[61]

VI. Right to education in the native language

50. It should be recalled here that in the Gali district there are 31 schools.[62] From 31 schools only 11 schools, all of which are in "lower zone" of Gali district, had the status of Georgian schools until the end of the academic year 2014-2015 and subjects were taught in the Georgian language.[63] However, from the beginning of September of the academic year 2015-2016, drastic changes were made in the curriculum of these 11 schools in "lower zone" of Gali district, implying teaching of all subjects in the Russian language in the first four grade classes i.e. in first grade, second grade, third grade and fourth grade classes.[64]

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[61] Occupants harvesting barley of locals in the village of Sobisi, Gori district, "Interpress news", 24 August 2016, available at <http://www.interpressnews.ge/ge/konfliqtebi/393718-goris-raionis-sofel-sobisshi-adgilobrivis-qeris-mosavals-okupantebi-igheben.html?ar=A>; Russian occupants took away another 6 hectares of land from Georgia, "Newpost.ge", 24 August 2016, available at <http://www.newposts.ge/?l=G&id=117025-%E1%83%92%E1%83%9D%E1%83%A0%E1%83%98,%20%E1%83%9D%E1%83%99%E1%83%A3%E1%83%9E%E1%83%90%E1%83%98>; Russian combine harvester harvested crops of residents of adjacent areas of the occupation line, "Tabula", 24 August 2016, available at <http://www.tabula.ge/ge/story/111093-rusulma-kombainma-saokupacio-xaztan-macxovrebelta-mosavali-aigho>; Russian occupants are robbing Georgian peasants, "Tbilisi media", 27 August 2016, available at <https://tbilisi.media/main/56266-rossijskie-okkupanty-obvorovyvayut-gruzinskih-krestyan/>; In the village of Sobisi, family of Chilindarashvilis' was given 5 hours in order to harvest barley, "Interpress news", 25 August 2016, available at http://www.interpressnews.ge/ge/konfliqtebi/393921-sofel-sobisshi-chilindrishvilebis-ojakhs-qeris-mosavlis-dasabinaveblad-5-saathi-mieca.html?ar=A.

[62] By the end of the academic year 2014-2015 there were 4, 459 pupils and 918 employees in these 31 schools; from 4, 459 pupils, 97.57 per cent, were ethnically Georgian and from 918 employees, 91.78 per cent were ethnically Georgian. See Weekly press review on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia's Autonomous Republic of Abkhazia, between 27 July and 2 August 2015.

[63] The Realm of the Possible - Finding ways forward in the Georgian-Abkhaz context: People in the Gal/i region, Conciliation Resources, July 2015, page 10, available at < http://www.c-r.org/downloads/CR_The-Realm-of-the-possible_Gal-i_43_webEn.pdf >; Report of the Year 2014 of the Public Defender of Georgia on the Situation of Rights of the Population Affected by the Conflicts, 5 June 2015, page 26, available at http://www.ombudsman.ge/en/news/reports-on-the-human-rights-situation-of-conflict-affected-population-and-internally-displaced-persons-in-georgia.page.

[64] The Russian curriculum means that the Russian textbooks, licensed by the Ministry of Education and Science of the Russian Federation and published in the Russian Federation, are used for the teaching. A special Report of the Public Defender of Georgia – The Right to Education in Gali District: New Developments and Challenges of the Academic Year of 2015-2016, "Public Defender of Georgia", October 2015, page 4 and 5, available at <https://drive.google.com/file/d/0B9BM3M8hbgAUNFE3RndlaXc2dFU/view?pref=2&pli=1>; In these classes only few hours is allocated for learning the Georgian language as a foreign language.

51. It should be emphasized that the academic year 2016-2017 started in line with the above changes implying teaching of all subjects in the Russian language. The above policy, if continued for several years, would result in gradual replacement of the Georgian curriculum with the Russian curriculum for all grades in these 11 schools of "lower zone" of Gali district. It has been argued that teachers of lower classes (from I to V) of 11 schools, all of which had the status of Georgian schools, are obliged to attend special trainings on using the Russian language as the language of instruction.[65] According to the Council of Europe, "[d]during the period under review, the situation with education in the Georgian language in Abkhazia continued to receive sustained attention. The delegation was informed that, since the start of the new school year, the Russian language had become the formal instruction language also in grade V in addition to grades I to IV. This policy seems to be applied in all 11 schools in the Gali district. In these schools, Georgian language is limited to three lessons per week along with two lessons of Georgian literature."[66] It has been further argued by the Council of Europe that "rrestrictions of freedom of movement continue to have a negative impact on access to education for children who attend school on the other side of the ABL."[67]

52. According Mr Chaloka Beyani, the UN Special Rapporteur on the Human Rights of Internally Displaced Persons, "other major concerns he highlighted related to the progressive change of language of instruction in Lower and Upper Gali Schools from Georgian to Russian."[68]

VII. Conclusions

53. It can be concluded that the situation described in the occupied regions of Georgia with regard to freedom of torture and ill treatment and examples provided for the reporting period constitute infringements on freedom from torture and ill-treatment and therefore are violations of Article 7 of the International Covenant on Civil and Political Rights (ICCPR); Article 5 of the Universal Declaration of Human Rights (UDHR); Article 3 of the European Convention on Human Rights (ECHR); and the OSCE commitments[69].

54. It can be concluded that the situation described in the occupied regions of Georgia with regard to arbitrary detention and examples provided for the reporting period constitute arbitrary detention and therefore violations of Article 9 of the International Covenant on

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[65] Timur Nadaraia: "our aim is to strengthen the district and increase the budget of the state", "aiaaira.com", 19 July 2016, available at http://aiaaira.com/news/intervyu/timur_nadaraya_nasha_zadacha_ukreplyat_rayon_i_uvelichivat_byudzhet_gosudarstva/.

[66] Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2016), 2016, SG/Inf (2016) 37, paragraph 49.

[67] Consolidated Report on the Conflict in Georgia, Council of Europe (April 2015 – September 2016), 2016, SG/Inf (2016) 37, paragraph 52.

[68] United Nations expert calls for transition to needs-based approaches to address the situation of IDPs in Georgia, Statement from Special Rapporteur on the Human Rights of Internally Displaced Persons, Mr Chaloka Beyani. United Nations Human Rights Office of the High Commissioner, 6 October 2016.

[69] The Vienna Concluding Document (1989) prohibits torture and other cruel, inhuman or degrading treatment or punishment. Paragraph 23.4; The Paris Document (1990) also prohibits torture and other cruel, inhuman or degrading treatment or punishment; the Istanbul Charter for European Security commits to "eradicating torture and other cruel, inhuman or degrading treatment or punishment throughout the OSCE area." Paragraph 21.

Civil and Political Rights (ICCPR); Article 3 of the Universal Declaration of Human Rights (UDHR); Article 5 of the European Convention on Human Rights (ECHR); and relevant provisions of the OSCE commitments.

55. It can be concluded that the situation described in the occupied regions of Georgia with regard to freedom of movement and examples provided for the reporting period constitute violations of the right to freedom of movement, namely of Article 12 of the International Covenant on Civil and Political Rights (ICCPR); Article 13 of the Universal Declaration of Human Rights (UDHR); Article 2, Protocol No. 4 of the European Convention on Human Rights (ECHR); and the OSCE freedom of movement commitments.

56. It can be concluded that the situation described in the occupied regions of Georgia with regard to the right to property and examples provided for the reporting period violate the right to property, namely Article 17 of the Universal Declaration of Human Rights (UDHR); Article 1, Protocol No. 1 of the European Convention on Human Rights (ECHR); and the OSCE commitments.

57. It can be concluded that the situation described in the occupied regions of Georgia with regard to education in the native language and examples provided for the reporting period constitute violations of the right to education in one's native language and therefore violations of Article 26 (read in conjunction with Article 2) of the Universal Declaration of Human Rights (UDHR); Article 2, Protocol No. 1 of the European Convention on Human Rights (ECHR); Article 28 (read in conjunction with paragraph 1 of Article 2) of the UN Convention on the Rights of the Child; and relevant provisions of the OSCE commitments.

58. It can be concluded that the situation described in the occupied regions of Georgia, particularly adoption of so called "laws" and the process of "passportisation" violates prohibition of discrimination provisions of Article 14 and Protocol No. 12 of the European Convention on Human Rights (ECHR); Article 26 of the International Covenant on Civil and Political Rights (ICCPR); and the International Convention on the Elimination of All Forms of Racial Discrimination.

59. It can be further concluded that the situation described in the occupied regions of Georgia violates the right of return of all internally displaced persons and refugees and their descendants, regardless of ethnicity, to their homes throughout Georgia, including in Abkhazia and the Tskhinvali region.[70]

VIII. Appeal to the international community

60. The Ministry of Foreign Affairs of Georgia appeals to the international community, states as well as international intergovernmental and non-governmental organizations:

- to continue recognizing extensively and widely the occupation of the territories of Georgia by the Russian Federation;
- to continue calling on the Russian Federation to bear responsibility for human rights violations on the occupied regions of Georgia;

[70] Resolution adopted by the General Assembly on 10 June 2016 on Status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia, A/RES/70/265. See also previous resolutions: 69/286 of 3 June 2015; 68/274 of 5 June 2014; 67/268 of 13 June 2013; 66/283 of 3 July 2012; 65/287 of 29 June 2011 etc.

- to continue calling on the Russian Federation to stop placing and removing barbed wire fences and other artificial obstacles and banners along the occupation line;
- to take additional measures in order to monitor and report on the human rights situation in the occupied regions of Georgia, more specifically, the Ministry of Foreign Affairs of Georgia appeals to:
    - i). the Office of the United Nations High Commissioner for Human Rights (OHCHR) to take additional measures in order to regularly address and assess the human rights situation in Abkhazia and Tskhinvali region of Georgia;
    - ii) the UN Human Rights Council's Special Procedure Mandate holders to take additional measures in order to address and report on the human rights situation in Abkhazia and Tskhinvali region of Georgia;
    - iii) the Commissioner for Human Rights of the Council of Europe to take additional measures in order to address and report on the human rights situation in Abkhazia and Tskhinvali region of Georgia;
    - iv) the OSCE and its autonomous institutions, namely the Office for Democratic Institutions and Human Rights (ODIHR) and the Office of the High Commissioner on National Minorities (HCNM) to find ways for monitoring the human rights situation in Georgia's occupied regions. Such steps could, inter alia, include undertaking a follow-up mission to the occupied regions of Georgia and preparing a report on the status of the implementation of the recommendations contained in the ODIHR/HCNM 2008 Report on "Human Rights in the War Affected Areas following the Conflict in Georgia".
- to continue calling on the Russian Federation to allow a) access of the international human rights monitoring mechanisms to the occupied regions of Georgia; b) access of the relevant missions of international organizations (e.g. EUMM), including humanitarian organizations, to the occupied regions of Georgia through legal routes;
- to continue and intensify condemning violations of human rights such as the right to life; freedom of movement; freedom from torture and ill-treatment; the right to liberty; the right to property and the right to receive education in the native language in the occupied regions of Georgia.

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Human rights situations that require the Council's attention

Letter dated 26 December 2016 from the Permanent Representative of Azerbaijan to the United Nations Office at Geneva addressed to the President of the Human Rights Council

I have the honour to transmit herewith information on the damage caused to the environment of certain territories of the Republic of Azerbaijan as a result of their ongoing occupation by the Republic of Armenia (see annex). Such damage to the environment in time of armed conflict contravenes the norms and principles of international law, including those related to a safe, clean, healthy and sustainable environment that is integral to the full enjoyment of a wide range of human rights – the rights to life, health, food, water and sanitation.

I would be highly appreciative if you could kindly circulate the present letter and the annex thereto* as a document of the thirty-fourth session of the Human Rights Council under agenda item 4.

(*Signed*) Vaqif **Sadiqov**

Ambassador, Permanent Representative

* Reproduced as received, in the language of submission only.

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Annex to the letter dated 26 December 2016 from the Permanent Representative of Azerbaijan to the United Nations Office at Geneva addressed to the President of the Human Rights Council

Information on damage to the environment in the occupied territories of the Republic of Azerbaijan

Pursuant to the General Assembly resolution 56/4 of 5 November 2001, which the Republic of Azerbaijan joined as one of the co-sponsors, the International Day for Preventing the Exploitation of the Environment in War and Armed Conflict is commemorated on 6 November of every year. In that resolution, the General Assembly noted that damage to the environment in times of armed conflict impairs ecosystems and natural resources long beyond the period of conflict, and recalled in particular Article 2, paragraph 4, of the Charter of the United Nations according to which all Member States shall refrain from the threat or use of force against the territorial integrity of any State in their international relations.

Earlier, in 1992, in its resolution 47/37, entitled "Protection of the environment in times of armed conflict", the General Assembly urged States to take all measures to ensure compliance with the existing international laws applicable to the protection of the environment in times of armed conflict.

The 2030 Agenda for Sustainable Development paid particular attention to the need for urgent action to protect the environment. In May 2016, theUnited Nations Environment Assembly adopted a resolution on the protection of the environment in areas affected by armed conflict, reaffirming, inter alia, its strong commitment to the full implementation of the 2030 Agenda and stressing the importance of the implementation by all Member States of international law applicable to the protection of the environment in areas affected by armed conflict in line with their legal responsibilities.

The aggression by Armenia against Azerbaijan, which has led to the seizure of almost 20 per cent of the sovereign territory of Azerbaijan, claimed the lives of tens of thousands of people, ruined cities and livelihoods and resulted in the forcible expulsion of more than 1 million Azerbaijanis from their homes and properties, has also had a devastating impact on the environment, with destroyed forests, burned and degraded soil, polluted water resources and killed animals.

The total area of special environmental protection in Azerbaijan covers 890,000 hectares of land, of which 42,997 hectares are currently under Armenian military occupation, including 152 natural monuments, 5 geological objects, 2 nature reserves, 4 conservation areas and 7 lakes, with a wide range of plant and animal species. In addition 247,352 hectares of forests remain under occupation, including 13,197 hectares of valuable forests, with hundreds of rare species of trees, such as plane trees, nut trees, oak trees, box tree evergreens, Eldar pine trees, persimmon trees and others.

Since the beginning of the conflict, the armed forces of Armenia have deliberately employed methods and means of warfare to cause widespread, long-term and severe damage to the environment of Azerbaijan, including its occupied territories.

Thus, in 2006, some areas in the occupied territories along the front line between the armed forces of Azerbaijan and the armed forces of Armenia were subjected to wide-scale

fires.[1] In its resolution 60/285 of 7 September 2006, entitled "The situation in the occupied territories of Azerbaijan", the General Assembly expressed serious concern about the fires in the occupied territories and stressed the necessity to urgently conduct an environmental operation to suppress the fires and to overcome their detrimental consequences. In accordance with that resolution, between 2 and 13 October, the occupied territories of Azerbaijan were visited by an environmental assessment mission led by the Organization for Security and Cooperation in Europe (OSCE). In its report, the mission concluded, inter alia, that the fires had resulted in environmental and economic damages and had threatened human health and security.[2]

The continuing occupation by Armenia of the territories of Azerbaijan also deprives hundreds of thousands of citizens of Azerbaijan of drinking water, causes soil erosion, dehydration and desertification and severely affects the region's natural resources and flora and fauna.

In its resolution 2085 (2016), adopted on 26 January 2016, the Parliamentary Assembly of the Council of Europe described Armenia's actions as environmental aggression aimed at creating humanitarian and environmental problems for the citizens of Azerbaijan. The Assembly warned of the serious threat of disaster and humanitarian crisis that the state of disrepair of the Sarsang dam posed to the whole area. In view of that urgent humanitarian problem, the Assembly demanded from Armenia its immediate withdrawal from the occupied territories of Azerbaijan and the cessation of using water resources as tools of political influence or an instrument of pressure benefiting it.[3]

The environment is being severely damaged also as a result of the continuing barbaric exploitation of natural resources in the occupied territories of Azerbaijan. Such exploitation has generated significant profit for Armenia and the subordinate separatist regime it has set up in those territories to accrue personal fortunes and fund a war. The relentless exploitation of farmlands in the occupied territories for many years has led to their depletion.[4]

There is evidence of deliberate transboundary pollution of rivers from tailings originating in Armenia, crossing the international border of Azerbaijan and ending up in its farmlands and forests. Thus, waters of the rivers in the Syunik district of Armenia, polluted with wastes from the Kapan Ore Processing Plant, the Zangezour Copper and Molybdenum

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[1] See the letter dated 28 July 2006 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, transmitting the letter dated 28 July 2006 from the Minister for Foreign Affairs of the Republic of Azerbaijan (A/60/963).

[2] See the letter dated 20 December 2006 from the Permanent Representative of Belgium to the United Nations addressed to the Secretary-General, transmitting the report to the OSCE Chairman-in-Office from the Coordinator of OSCE Economic and Environmental Activities (A/61/696).

[3] The Sarsang reservoir is the largest water reservoir in the area. It was formed in 1976 when a dam was built on the Tartar river in the Aghdere district of Azerbaijan to supply drinking water to more than 500,000 people in the areas of upper and lower Karabakh in Azerbaijan and irrigation water to more than 100,000 hectares of fertile land in the six districts of the republic. It has been under Armenian occupation since 1993. The current technical condition of the Sarsang dam poses a serious threat to approximately 400,000 citizens of Azerbaijan living downstream from it. For more information, see the report of the Rapporteur of the Committee on Social Affairs, Health and Sustainable Development of the Parliamentary Assembly of the Council of Europe, Milica Marković, entitled "Inhabitants of frontier regions of Azerbaijan are deliberately deprived of water" (Document 13931, 12 December 2015).

[4] For more information, see the letter dated 15 August 2016 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, transmitting the report on illegal economic and other activities in the occupied territories of Azerbaijan (A/70/1016-S/2016/711).

Combine and the "Artsvanik" tailing dump, flow into the transboundary Okhchuchay river and then into the occupied Zangilan district of Azerbaijan and the Araz river.

The timber trade has become one of the sources of revenue for Armenia. In 1993 alone, some 206,600 cubic metres of valuable types of timber from the occupied territories of Azerbaijan were transported to Armenia. In 1996, 55 hectares of walnut trees of the Leshkar forest area in the occupied Zangilan district of Azerbaijan, planted in 1957 and 1958, were cut down. In 2003, some 10,000 walnut trees were cut down in the occupied territories. Some 45,359 cubic metres of timber was cut in 2010 and 96,237 cubic metres in 2013. The evidence confirms that illegal timber-cutting in the occupied territories is on the rise.

Owing to its continuing aggression against Azerbaijan, Armenia bears full international responsibility for the breaches of international law, including those that have caused damage to the environment of Azerbaijan and the depletion of natural resources in its occupied territories. This once again confirms the need for urgent and effective action to invoke Armenia's responsibility through consistent efforts by the international community, thus bringing to an end the impunity enjoyed by the aggressors and ensuring the liberation of the Nagorno-Karabakh region and other occupied territories of Azerbaijan from the Armenian occupation.

There can be no durable peace if the environment that sustains livelihoods is destroyed, polluted and barbarically exploited. As the Secretary-General of the United Nations stated on 6 November 2016 in his message on the International Day for Preventing the Exploitation of the Environment in War and Armed Conflict, to achieve the goals declared in the 2030 Agenda for Sustainable Development, which is a transformational blueprint for peace, prosperity and dignity for all on a healthy planet, we have a duty of care towards the environment in peacetime and during war and have to work together to combat environmental crime and end the illegal exploitation of natural resources.